

MT LEGISLATIVE HISTORY

Chapter 61 1967

Bill H _____ S 78

Original bill & hist. C

H. Committee on Research & Resources

S. Committee on Taxation

Hearing Date(s) Feb 15 ✓C

Hearing Date(s) Jan 31 ✓C

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Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

January 31, 1967

The committee on Taxation met in Room 442 on the above date at 8 a.m. with Chairman Nees presiding. Roll call was taken and a quorum was present.

SENATE BILL 42 was taken under advisement by the committee. Senator Judge, author of the bill, explained its intent. He introduced Exhibit "A"--a map showing marine fuel taxes for boating; Exhibit "B"--a letter from the Outboard Boating Club of America. Senator Judge emphasized the development of outdoor recreation areas and the right of access to water facilities. He further stated this bill was changed to .9 of one percent to make it constitutional. He explained that an appropriation of \$5,000 could be included to permit the Business Research Department of the University to ascertain the number of gallons of gasoline used in motorboating in Montana. Proponents appearing were Frank Dunkle, Fish and Game Department; Senator Jean Turnage, Lake County; Orvin Fjare, State Advertising Department; Mrs. John F. Casey, Canyon Ferry Recreation Association; and Wesley Woodgerd, Fish and Game Department, who introduced Exhibit "C"--List of State Parks, Exhibit "D"--Expenditures from 7-1-65 through 6-30-66 of Land Based Parks, and Exhibit "E"--Motorboat Money Spent by Counties.

Opponents appearing were Pat Hooks, Attorney for Plaintiffs, Harvey and Blewett, etc.; Senator Schotte; Albert Erickson, General Manager of Montana Automobile Association who introduced Exhibit "F"--Allocation of Motor Fuel Taxes for Marine and Aviation Purposes; Ben Havdahl, Montana Petroleum Association, who introduced Exhibit "G"--Findings of Fact and Conclusion of Law; Ray Reavley, Montana Highway Users Conference. The main argument of the opponents was only an estimate of the gasoline used in motorboats is given. There has not been an accurate study made to determine actual gallons for the average user.

Rebuttal was continued by Chadwick H. Smith, representing the Fish and Game Department. He said if present program for improving and providing parks is stalemated by not passing this legislation, it will set all of the progress made back at least two years.

General discussion by the committee followed after the proponents and opponents were excused. Senator McGowan moved SENATE BILL 42 be amended in the title and the body of the bill to fix the percentage at .6% instead of the present .9% set forth. A substitute motion was made by Senator Kafka to amend the figure from .9% to .3½%. A substitute motion to the substitute motion was made by Senator Anderson who moved that the .9% figure be changed to .7%. This motion failed. Voting on the substitute motion showed it failed and the original motion carried amending SENATE BILL 42 to read .6% of one percent. Senator McGowan moved that SENATE BILL 42 AS AMENDED DO PASS. Motion seconded by Senator Street and then carried.

SENATE BILLS 78, 79, and 80 were placed before the committee for their consideration. Senator Anderson moved SENATE BILL 78 DO PASS. The motion was seconded by Senator Street and carried.

Senator Kafka moved SENATE BILL 79 DO PASS. Senator Rostad seconded and motion carried.

February 15, 1967
Minutes of the

RESEARCH AND RESOURCES COMMITTEE

Meeting was called to order by Chairman Ulmer. The secretary called the roll.

First bills under discussion were Senate Bills 78, 79 and 80. Howard O. Vrolsted, representing the State Board of Equalization, explained the bills to the committee.

SB78: After Mr. Vrolsted's explanation, floor was open to questions.

Mr. Goan: Does this also apply to capital gains?

Mr. Vrolsted: Yes, for personal income tax purposes.

SB79: Mr. Vrolsted said the purpose of this bill is to change certain definitions used in the income tax law. Brief question and answer period followed.

SB80: An act to tax electing small business corporations on income which would otherwise escape taxation by reason of a change in the internal revenue code.

Floor was open to questions after Mr. Vrolsted's explanation.

Mr. Drum: How much will the passing of these three bills add to the net accumulation of revenue for the state?

Mr. Vrolsted: Not very much actually--we only have three or four such situations a year.

Mr. Goan: What are the qualifications?

Mr. Vrolsted: Any business corporation which is doing business in Montana which doesn't have more than 10 shareholders or have a non-resident shareholder.

Mr. Ulmer: Do you feel besides closing the loophole this would cause trouble in any other area?

Mr. Vrolsted: To be quite frank I couldn't say with any certainty because I haven't actually made the comparison. My off-hand feeling is that it doesn't. It wouldn't affect 115 as such but 115 may have to be broadened to cover this provision.

Mr. Goan: Isn't this attempting to do the same thing HB189 tried?

Mr. Vrolsted: HB189 would not have closed this loophole.

Mr. Ulmer: Would your position in collecting individual income tax be improved considerably if we passed HB78?

Mr. Vrolsted: Yes, it would amount to considerable revenue.

Witness was excused.

Representative Harrison, chief author of HR4, explained the resolution. Brief question and answer period followed. Witness was excused.

Representative Asbjornson, chief sponsor of HR1, explained the resolution. He said he introduced the bill at the request of Donald Sorte, of the Legislative Council, and that any cost involved would come out of the legislative council. Brief question and answer period followed. Witness was excused.

Aspevig moved HR1 Do Not Pass; motion failed. Mr. Goan proposed an amendment to the resolution; motion carried. Mr. Swan moved HR1 as amended Do Pass; motion carried.

Mr. Murphy moved HR4 Do Pass; motion carried.

Mr. Goan moved SB78 Be Concurred In; motion carried.

Mr. Goan moved SB79 Be Concurred In; motion carried.

Mr. Murphy moved to pass consideration of SB80; motion carried.

Mr. Williams and Mr. Goan are to prepare a questionnaire for the members of the House pertaining to the changing of the length of the sessions or whether an annual session is desired.

Meeting was adjourned.

WALTER J. ULMER, Chairman

Virginia Sawyer, Secretary

tractor. The cook in a logging-camp shall be regarded as a person who assists in obtaining or securing any of the timber herein mentioned."

Approved: February 20, 1967.

CHAPTER 60

An Act to Provide That Applicants for Public Assistance Under Chapter 6, Title 71, R.C.M. 1947, (Aid to Needy Blind), Under Chapter 14, Title 71, R.C.M. 1947, (Services to the Blind), and Applicants for Vendor Medical Payments Need Not Agree That the Amount of Assistance Received Shall Be Secured by a Lien on the Applicant's Real Property, Amending Section 71-241, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-241, R.C.M. 1947, is amended to read as follows:

Agreement for lien on real property of some recipients of public assistance—excluded.

"71-241. **Agreement for lien on real property of some recipients of public assistance.** No application for a public assistance grant except applications made pursuant to chapter 5, Title 71, Revised Codes of Montana, 1947, (aid to dependent children), chapter 3, Title 71, Revised Codes of Montana, 1947 (general relief), chapter 6, Title 71, Revised Codes of Montana, 1947, (aid to needy blind) and chapter 14, Title 71, Revised Codes of Montana, 1947, (services to the blind), and for vendor medical payments in behalf of individuals, shall be approved unless the applicant shall execute and deliver with such application an agreement, in such form as the state board of public welfare shall prescribe, acknowledging and agreeing that the amount of all assistance thereafter paid to the applicant, from whatever source such assistance may be derived, shall constitute an obligation and indebtedness of the applicant to the state and county which shall be secured by a lien upon all real property of the applicant then owned or acquired while a recipient of such assistance."

Approved: February 20, 1967.

CHAPTER 61

An Act to Suspend the Running of Statutes of Limitations, When Taxpayer's Federal Return is Changed and Taxpayer Fails to Report the Change, in Order to Allow the State of Montana Opportunity to Collect Additional Taxes, If Any, That Are Warranted by the Change in Taxpayer's Federal Return; Amending Sections 84-4920.1 and 84-4938, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 84-4920.1, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-4920.1. **Suspension of running of statute of limitations—grounds.** The running of the statute of limitations provided for under section 84-4920 shall be suspended during any period that the federal statute of limitations for collection of federal income tax has been suspended by (1) written agreement signed by the taxpayer or, (2) when the taxpayer has instituted an action which has the effect of suspending the running of the federal statute of limitations, and for one (1) additional year. *If the taxpayer fails to file a report of changes in federal taxable income or an amended return as required by section 84-4938, the said statute of limitations shall not apply until five years from the date the federal changes become final or the amended federal return was filed.* If the taxpayer omits from gross income an amount properly includable therein which is in excess of twenty-five percent (25%) of the amount of adjusted gross income stated in the return the said statute of limitations shall not apply for two additional years from the time specified in section 84-4920." Suspension of running of statute of limitations—grounds.

Section 2. That Section 84-4938, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-4938. **Furnishing copy of federal return, copies of federal corrections, and filing amended return required.** Every taxpayer shall upon request of the board, furnish a copy of the return for the corresponding year which he has filed or may file with the federal government showing his net income and how obtained and the several sources from which derived. *If the amount of a taxpayer's taxable income is changed or corrected by the United States Internal Revenue Service or other competent authority, the taxpayer shall report such change or correction to the board* Furnishing copy of federal return—corrections and amendments.

within ninety days after receiving notice thereof. If a taxpayer files an amended federal income tax return changing or correcting his federal taxable income for any taxable year, he shall also file an amended return with the state board of equalization within ninety days thereafter. The board shall supply all necessary forms and shall return all such forms to the taxpayer after they have been examined by the board, upon the request of the taxpayer."

Effective
immediately.

Section 3. This act is effective on its passage and approval.

Approved: February 20, 1967.

CHAPTER 62

An Act to Make the Determination of Income Tax Correspond More Closely with Provisions of the Internal Revenue Code Which Pertain to the Determination of Taxable Year; Amending Section 84-4901, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 84-4901, Revised Codes of Montana, 1947, is amended to read as follows:

Definitions.

"84-4901. **Income tax—definitions.** For the purpose of this act unless otherwise required by the context:

"Board."

(1) The word "board" means the state board of equalization.

"Taxpayer."

(2) The word "taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this act, and does not include corporations.

"Taxable year."

(3) *The term "taxable year" means the taxpayer's taxable year for federal income tax purposes.*

"Fiduciary."

(4) The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person whether individual or corporate, acting in any fiduciary capacity for any person, trust or estate.

"Paid."

(5) The word "paid" for the purposes of the deductions and credits under this act means paid or accrued or paid or incurred, and the terms "paid or incurred" and

"paid or accrued" shall be construed according to the method of accounting upon the basis of which the *taxable income* is computed under this act. The term "received" for the purpose of computation of *taxable income* under this act, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the *taxable income* is computed under this act.

"Received."

(6) The word "resident" applies only to natural persons and includes for the purpose of determining liability to the tax imposed by this act with reference to the income of any taxable year, any person domiciled in the state of Montana, and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

"Resident."

(7) The word "dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

"Dividend."

"Stock dividends."

(8) The words "foreign country" or "foreign government" mean any jurisdiction other than *the* one embraced within the United States, *its territories and possessions.*

"Foreign country."

(9) The words "information agents" include all individuals, corporations, associations and partnerships, in whatever capacity acting, including lessees, or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state, or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits and income with respect to which any person or fiduciary is taxable under this act.

"Information agents."

(10) The term "net income" means the *adjusted* gross income of a taxpayer less the deductions allowed by this act.

"Net income."